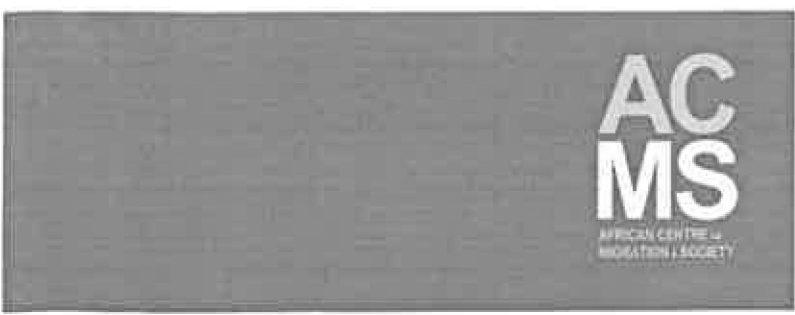


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ELUSIVE JUSTICE

SOMALI TRADERS' ACCESS TO FORMAL
AND INFORMAL JUSTICE MECHANISMS
IN THE WESTERN CAPE

VANYA GASTROW WITH RONI AMIT
2012 | ACMS RESEARCH REPORT



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The African Centre for Migration & Society (ACMS)

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ACKNOWLEDGEMENTS	2
EXECUTIVE SUMMARY	7
Introduction	7
Methodology	7
Crime affecting Somali traders	8
Findings and implications	9
Access to the formal justice system	10
Access to informal mechanisms of justice	11
Conclusion and recommendations	12
INTRODUCTION	17
RESEARCH METHODOLOGY	21
Introduction	21
Choice of field sites	22
Interviews	22
Permissions to conduct interviews with members of the formal justice sector	24
Participant observation	24
BACKGROUND ON THE SOMALI PRESENCE IN THE WESTERN CAPE	27
Somali immigration to South Africa	27
The Somali community in Cape Town	27
Somali business operations in the Western Cape	28
Factors contributing to disproportionate levels of crime against Somali traders	29
Social isolation	30
Misinformation and bias	30
Impunity	30
Competition	31
Profitable targets	31
Complexity of motivations	31

S
MM

CRIME AFFECTING SOMALI SHOPKEEPERS IN THE WESTERN CAPE	33
Types of crime	33
Opportunistic business robberies	33
Crimes orchestrated by South African traders against Somali competitors	35
Crimes orchestrated by Somali traders against other foreign nationals	36
Intimidation and attempted illegal evictions of Somali shops by South African competitors	37
Robberies by police during police search operations	39
Looting of shops by residents	40
Hijackings	41
Harassment and abuse by state institutions and community leaders	42
Crime in small towns	44
Conclusion	45
BACKGROUND AND HISTORY OF CRIME IN THE PRIMARY FIELD SITES	47
Background of field sites	47
Khayelitsha	47
Kraaifontein	50
Philippi	52
History of crime in field sites	54
2006: Crime increase	54
2008: Xenophobia	56
2008: Intimidation of Somali traders and the negotiation of informal trade agreements	56
July 2010: 'World Cup' xenophobic attacks	58
2009 to 2012: Crime orchestrated by South African traders	58
Conclusion	60
ACCESSING FORMAL JUSTICE	63
Introduction	63
Conviction rates	63

4
MM

Factors weakening access to justice	64
Factors arising during police investigations	65
Factors affecting prosecutions	74
Factors enabling access to justice	77
Conclusion and recommendations	80
<hr/>	
ACCESSING COMMUNITY JUSTICE	87
<hr/>	
Local community structures and crime	87
History and operation of street committees	87
Community responses to crime	90
Effectiveness of street committee justice	92
Somali access to informal justice	93
Conclusion and recommendations	98
<hr/>	
CONCLUSION AND RECOMMENDATIONS	100
<hr/>	

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EXECUTIVE SUMMARY

Introduction

Fleeing the civil war that began in 1991, Somalis began migrating to a newly-democratic South Africa in the mid-1990s. Somalis who arrived in Cape Town initially worked as informal traders in the central business districts in and around the city. They soon moved into the city's townships and began opening small grocery stores or spaza shops. These spaza shops have proved largely successful, and today are a central source of income for Somalis in cities and towns across South Africa.

But these township spaza shops have also been a source of insecurity for Somali traders. Somali-run shops have suffered disproportionately from crime that includes robberies, looting, and orchestrated arson attacks and murders organised by competing South African traders. This report explores these crimes in the Western Cape and the extent to which Somali victims can access both the formal justice system and informal community justice structures. The report reveals that both forms of justice are lacking.

On the informal justice side, the socially tenuous and isolated positions that Somali traders occupy in the townships exclude them from many of the community structures used to mediate conflict and punish crime. The lack of close community ties also increases their vulnerability to crime, abuse, and extortion by individuals, community leaders, and state actors. Forced to rely almost exclusively on the formal institutions of justice, Somali traders are hampered by a lack of faith in the police and courts that is exacerbated by language barriers and a lack of understanding of how the justice system works. Police and prosecutors also encounter difficulties communicating with Somali victims of crime and keeping them engaged in cases that must wend their way through a lengthy justice process. The result is that very few crimes against Somalis lead to convictions. The research findings identify some of the barriers that contribute to this outcome, as well as possible ways to overcome them.

Methodology

This is the first in a series of three reports examining the situation of Somali traders in the Western Cape by exploring the economic, community, and institutional dynamics at work. The reports focus specifically on Somali nationals because they make up the majority of foreign spaza shopkeepers in the region.¹ Attempting to identify why Somalis are so often

¹ ACMS carried out research in three townships in Cape Town where residents, Somali traders and police all confirmed that the vast majority of foreign shopkeepers in their areas were Somali nationals. ACMS also visited a number of small towns in the province where there was a higher ratio of Ethiopian traders, but Somali traders still operated the majority of foreign national businesses.

the targets of crime, the research explores the social and political context in which Somalis are embedded.

The current report focuses on the access to justice dimension of the Somali experience. The second report turns to the economics of Somali migration, looking more closely at Somali business practices and the overall effect of Somali businesses on local economies. It considers the common myths and misperceptions involving Somali businesses. The final report examines some of the socio-political dynamics at work, investigating various government and civil society interventions aimed at regulating Somali shops and addressing threats or complaints by South African shopkeepers.

The research covers three field sites near Cape Town: Philippi, Khayelitsha, and Kraaifontein (specifically Bloekombos and Wallacedene). It also includes more limited research on the experiences of Somali traders in small towns in the Western Cape. Sites visited included Ceres, Tulbagh, Prince Albert Hamlet, Vredenberg and Caledon.

The findings are based on qualitative interviews with 72 Somali traders: 55 who were working in townships and seventeen in small towns in the Western Cape. ACMS also interviewed South African township residents, local community leaders, police, prosecutors and members of civil society.

Crime affecting Somali traders

Somali traders in the Western Cape experience much higher rates of business robberies than their South African counterparts. In Khayelitsha, for example, foreign traders (primarily Somali) owned 50 percent of shops, but made up 96.5 percent of business robbery victims.² Within the wider province, almost 70 percent of business robbery victims are foreign nationals, most running spaza shops in the townships.³

Although business robberies are the most commonly reported crime, Somali traders experience a range of additional types of crime. The main categories of crime affecting Somali traders include:

- Opportunistic business robberies;
- Crimes orchestrated by South African traders against Somali competitors;
- Crimes orchestrated by Somali traders against other foreign competitors;
- Intimidation and attempted illegal evictions of Somali shops by South African competitors;
- Robberies by police during police search operations;

² Khayelitsha police station crime intelligence officials, telephone interview, 17 April 2012.

³ Wyndham Hartley, 'Illegal foreign business owners "a soft target for criminals"' *Business Day*, 9 February 2012, available at <http://www.businessday.co.za/News/Illegal-foreign-business-owners-a-soft-target-for-criminals-20120209>, date accessed 24 May 2012. The SAPS Western Cape provincial office confirmed these statistics by phone on 16 August 2012.

- Looting of shops by residents;
- Hijackings; and
- Harassment and abuse by state institutions and community leaders.

The fact that these crimes disproportionately targets foreign businesses suggests that they are not motivated by economic factors alone.

Findings and implications

Despite the targeting of Somalis for a range of crimes, very few individuals are arrested for these crimes, and even fewer are convicted. The resulting culture of impunity contributes to the notion that Somalis are easy targets, and that individuals can commit crimes against them with few repercussions. This creates added incentives for the targeting of Somali shops.

Somali traders rely heavily on the formal institutions of justice, including the police, prosecutors, and the courts, to combat crime affecting them. This reliance often proves frustrating for both sides, as police battle to investigate cases, prosecutors prove unable to secure convictions, and Somalis grow frustrated with lengthy court procedures that they do not understand. Many Somalis either fail to report cases because they mistrust the system, or they grow disillusioned with the justice system and abandon existing cases.

Some efforts by police and prosecutors have proved effective in both reducing and prosecuting crime. These include improved police tactics to investigate crimes and efforts to engage Somali community members during legal proceedings. At the same time, the police have failed to act against specific categories of crimes: the looting of Somali shops and intimidation by South African traders. This inaction raises questions about the extent to which the police are fulfilling their constitutional duty to 'prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.'⁴ It also reinforces the notion that the Somali presence in the townships is somehow illegitimate. By validating the efforts of South Africans who claim an entitlement to target Somali shops, police inaction undermines the rule of law and the notion of an equitable system of justice.

Somali traders are particularly affected by the failures of the formal justice system because of their inability to turn to the informal community structures that operate as parallel justice mechanisms in many townships. In many areas, these informal justice mechanisms have displaced the formal institutions of justice, as community structures conduct their own investigations and mete out punishments. The preference for these informal community measures, combined with a general distrust of the institutions of state, has affected the willingness of local residents to cooperate with police and prosecutors in cases

⁴ Section 205(3) of the Constitution of the Republic of South Africa, 1996.

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involving both South Africans and foreigners. But while South African residents can turn to these informal mechanisms where the formal justice system proves inadequate, Somalis are largely excluded from these community structures. Living in social isolation from the areas in which they work, Somalis have not developed close community ties, and their lack of integration is often resented by local residents. As a result, crime against these shops is not visible to residents in the same way as crime against South Africans. While the latter is perceived as a community issue, the former is not.

This invisibility not only prevents Somalis from obtaining redress for crimes committed against them; it also increases their vulnerability to crime, as criminals calculate that there will be less chance of a community response for crimes committed against Somalis. From a purely objective assessment, Somali shops make easier targets than South African ones: the lack of community involvement in either the formal or informal mechanisms of justice reduces the likelihood of being caught and punished. At the same time, the relative social isolation of Somalis increases their vulnerability to crime, extortion, and abuse by individuals with other motivations, such as xenophobia or eliminating competition.

Access to the formal justice system

The institutions of justice responsible for responding to crimes against Somalis confront specific challenges associated with this socio-political context. Investigating these in detail, the report identifies the main barriers that weaken Somali access to justice. At the same time, it uncovers a few factors that may facilitate interactions with the institutions of justice and improve Somali faith in this system, making their participation more productive. These are briefly summarised below.

Factors weakening access to justice

ACMS identified a range of factors that weakened access to formal justice for Somali traders:

- Language barriers that prevented police from questioning Somalis immediately when they reached crime scenes;
- Somali community interference with evidence: community members often arrived at crime scenes before police and tampered with evidence or removed bodies for burial;
- The inability of Somali traders to identify suspects because of their relative isolation from the community;
- Lack of South African witness cooperation;
- Non-reporting of crimes by Somali traders;
- The withdrawal of cases because of settlements or intimidation;
- Somali difficulties contacting or communicating with the police;

- Police difficulty contacting Somali complainants due to frequent Somali relocation;
- Unwillingness of the police to prevent or investigate looting of Somali shops;
- Police unwillingness to charge and prosecute South African traders for intimidation of competing Somali traders or the eviction of Somali traders from their shops;
- Intimidation or abuse by police officers;
- The perception among Somali traders that the police are related to criminals;
- Somali misunderstandings about how the formal justice system works; and
- Vague police witness statements.

A few factors facilitated access to formal justice. Specific factors include:

- Police patrol efforts;
- A long-standing Somali presence in an area;
- The prioritisation of crimes against foreigners and improved intelligence efforts;
- Somali community involvement in high profile investigations and court cases; and
- Monitoring of court cases by non-governmental organisations.

Access to informal mechanisms of justice

Many township residents eschew interactions with the formal justice system and rely instead on informal community justice. These mechanisms generally consist of local street committees, which are small residents' forums found on almost all township streets. Most fall under the authority of the South African National Civic Association (SANCO), an umbrella body of civic organisations. Street committees enjoy varied support amongst residents. Some residents believe that street committees play an important role in addressing community issues, while others perceive them as too closely linked to party politics, and accuse members of being self-serving and authoritarian.

Somali traders have limited access to informal justice mechanisms because they face difficulties integrating into the communities where they work and lack close community ties. Only three Somali respondents regularly attended street committee meetings, and traders rarely formed relationships with local residents.

Many local residents were largely oblivious to crime affecting Somali traders, while others expressed hostility over the fact that Somalis were not more engaged with the community. Even residents who were supportive of Somali shops were either reluctant or unable to actively defend them within these community structures because of the competing views of other members. Thus, even those few Somalis who participated in street committees found that these committees were unwilling to respond to crimes against them. Such crimes fell outside of the scope of shared community concerns mobilising action.

Conclusion and recommendations

This report sheds light on the social and political dynamics at play in areas hosting Somali shops, and how these dynamics influence both the nature of crime affecting Somali traders, and their ability to access justice. A variety of factors – particularly their social marginalisation - increase both the vulnerability of Somalis to crime, and the invisibility of these crimes within the community. Existing outside of the communities in which they operate, Somalis are forced to rely almost exclusively on the formal institutions of justice. But these institutions also confront community dynamics that limit their ability to address crimes targeting Somalis. In addition, these formal justice actors encounter obstacles working with Somalis themselves, both because of language barriers and because of Somali confusion around the workings of the justice system. As a result, Somalis may not always have faith in the justice system on which they are forced to rely.

These challenges are multifaceted and cannot be addressed by one stakeholder alone. While crime affecting Somali shops falls clearly within the ambit of the formal justice system, the underlying social causes of such crimes do not. Other parties, including Somali and South African community organisations, civil society, and local government also have a role to play in improving the security of Somali traders.

In light of the findings of the report, ACMS makes the following recommendations:

To the South African Police Service:

Addressing language barriers

- Police stations should work with local Somali community leaders to set up a ready reserve of locally based translators who can be called upon to come to crime scenes quickly.
- Police stations should train translators on how to take reliable police statements, especially the importance of translating information accurately and in detail.

Crime prevention

- Police stations should maintain and expand police patrolling efforts to increase the rate of police apprehension of suspects in the act of committing crime. This is especially important given Somali difficulties in identifying suspects.

Preventing withdrawal of cases by Somali complainants

- Investigating officers should keep in touch with complainants regularly, and ensure that they are fully informed of the status of police investigations.
- Police stations must take measures to ensure that individual police officers are providing Somali traders with access to information on their cases when they make enquiries, rather than turning them away or creating arbitrary requirements.

- Investigating officers should remind Somali complainants to notify them if they change their address or telephone number.
- Police at crime scenes should provide Somali complainants with information to assist them in following up on their cases, including providing their direct phone numbers.
- Police stations should work with Somali community organisations to set up institutional mechanisms to alert Somali community representatives of key cases under investigation so that Somali community members can provide support to complainants.
- The investigating officer should follow up with complainants who were taken to the hospital before the investigating officer arrived at the scene of the crime.

Intimidation

- Police must charge and send for prosecution South African traders suspected of intimidating Somali competitors.
- Police stations must institute training and review measures to ensure that police statements are taken properly, and are thorough and comprehensive enough to be reliable in court, particularly in bail hearings.
- Police stations should set up institutional mechanisms to alert Somali community organisations of bail hearings so that they can arrange for community members to attend. This will help indicate the Somali community's concern to the prosecutor and magistrate and encourage solidarity with victims.

Looting

- SAPS must develop strategies to protect shop property from looters in line with its obligation to 'prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.'⁵
- Police must ensure that suspected looters are charged and their cases sent for prosecution.
- When rumours of xenophobic attacks arise, the police must send a clear message that looting of Somali shops will not be tolerated and must enforce this message.
- Police should protect traders so that they are not forced to abandon their shops in response to threats of xenophobic violence. If traders do decide to close their shops, the police must ensure that vacant shops are not looted of remaining contents or infrastructure.

⁵ Section 205(3) of the Constitution of the Republic of South Africa, 1996.

Promoting trust in the police and preventing police abuse

- Police stations must ensure that Somali traders are treated respectfully at police stations when reporting crime.
- Police stations should prioritise investigations into police robberies of Somali shops.
- The police must investigate all allegations of police abuse and take action against those found to have committed such abuse.
- SAPS should enforce trading regulations in a fair and non-discriminatory manner against both Somali and South African traders and not discriminatorily target only Somali shops.
- The police should expand the use of successful intelligence gathering strategies. This includes appointing an investigating officer who can specialise in crime affecting Somali shops and can focus on gathering intelligence from local communities. This is especially important where crimes appear to be orchestrated by specific groups such as South African traders or organised gangs. Where certain crimes appear to be spread over several different police jurisdictions, local police can arrange for docket analyses to be carried out by SAPS crime intelligence officials so that separate investigations can be joined.

Record keeping

- The police should compile and make accessible records on crime affecting foreign nationals. This will enable researchers, civil society, and community organisations to know the extent of crime affecting foreigners in the province, and to determine where assistance is required, or where research should be focused.

To the National Prosecuting Authority:

- The NPA should clarify what 'xenophobic crimes' are when gathering data on such crimes and keep records of crimes affecting foreign nationals in general.
- Prosecutors should remind Somali complainants to notify them in the event of any change of given addresses or telephone number.
- Where police statements are vague, prosecutors must advise relevant police officers to obtain more comprehensive statements before bail hearings begin.
- The NPA should engage with Somali community organisations to arrange the provision of high quality translators who are familiar with court procedure and can explain to complainants at their first consultation how the court procedure works.

To Somali community organisations:

- Somali community organisations should encourage Somali traders to familiarise themselves with local township community organisations and participate in community affairs.
- Somali community organisations should develop a program to support Somali victims of crime by attending court appearances with them, and providing guidance about the workings of the criminal justice system.
- Somali community organisations should work with local NGOs to inform traders of proper procedure at crime scenes and how to prevent interference with evidence.
- Somali community organisations should work with township community organisations such as SANCO to improve integration of Somali traders in townships.
- Somali community organisations should inform Somali traders about the importance of providing accurate and detailed information when police take down their statements.
- Somali community organisations should inform Somali traders of their duty to notify investigating officers of any change of given address.
- Somali community organisations should inform Somali traders of the importance of persisting with their criminal cases and of how this plays a role in addressing crime affecting the Somali community as a whole.
- Somali community organisations should improve communication and coordination amongst themselves.
- To prevent police abuses (e.g., robberies) during searches, Somali community organisations should advise Somali traders that police in general cannot search their shops without a search warrant.
- Somali community organisations should alert NGOs of important cases so that they can monitor cases and educate Somalis about the court process.

To the City of Cape Town:

- The City's Social Development Department should treat measures to address xenophobia as one of its core functions.
- The City's Social Development department should work with South African township communities and Somali community organisations to bolster the integration and inclusion of Somali traders in their communities. This could include arranging dialogues between South African and Somali community leaders to find out ways in which Somali traders could participate in local initiatives such as street committee meetings, sports teams, and skills training.
- The City's Social Development department should include Somali traders in local community projects run by the City such as youth leadership programmes and arts and culture projects.

- The City of Cape Town's Economic and Human Development Department should develop comprehensive strategies to support and regulate informal business in townships.
- The City of Cape Town's Economic and Human Development Department should liaise with SAPS to ascertain which body is best positioned to monitor regulations and by-laws in line with the City's local economic policies and to ensure non-discriminatory application of these laws.

To civil society and non-profit organisations:

- Civil society and non-profit organisations working with township communities should involve Somali traders in their projects.

INTRODUCTION

Somali nationals began migrating to South Africa in the mid-1990s, most seeking refuge from the civil war in their home country. Once here, many became financially self-reliant by opening small businesses in cities and towns. Their most common business venture is the informal grocery shop, or spaza shop. Seeing a key market opportunity, Somali traders have opened spaza shops in townships across the country over the last decade.

These shops have proved to be a valuable mechanism for economic survival and growth, but they have not been without consequences. Somali traders have experienced high rates of crime including robberies, lootings, arson attacks, and orchestrated murders. The South African Police Service does not publish records of crime affecting foreign nationals in South Africa, but the Western Cape Provincial Commissioner recently stated in Parliament that nearly 70 percent of business robbery victims in the province were foreign nationals who operated spaza shops.⁶ Somali nationals operate the majority of foreign-owned spaza shops in the Western Cape⁷ and are thus disproportionately affected by such crime.

Somali-owned spaza shops are particularly susceptible to crime because they hold large amounts of cash from the quick turnover of consumer goods, and also contain easily conveyable items such as airtime vouchers and cigarettes. This makes them an appealing target for potential robbers or looters. But their vulnerability to crime cannot be attributed to their economic appeal alone, given that South African spaza shopkeepers are not targeted with the same frequency. Although South African nationals operated approximately 50 percent of spaza shops in Khayelitsha (Site B and C), for example, they constituted 3.5 percent of business robbery victims.⁸ The remaining 96.5 percent were foreign nationals, despite making up only half of spaza shop owners. Most of these foreign victims were likely Somali, as police estimate that they make up 80 to 90 percent of foreign traders in Khayelitsha.⁹ Somalis not only experience robberies, but also more orchestrated attacks that involve arson, murder, and the use of threatening letters aimed at getting them to close their shops. The greater susceptibility of Somali nationals to crime suggests that other dynamics, in addition to economic opportunity, may be at work.

This report seeks to explore some of these dynamics. Somali experiences with crime must be understood within the broader socio-political context within which the migrant population is embedded. On a community level, local attitudes and reactions to the Somali

⁶ Wyncham Hardley, "Illegal foreign business owners 'a soft target for criminals'" *Business Day*, 9 February 2012 available at <http://www.businessday.co.za/articles/Content.aspx?id=164482>, date accessed 24 May 2012. The SAPS Western Cape provincial office confirmed these statistics by phone on 16 August 2012.

⁷ Other foreign traders, including Ethiopians, Burundians, Bangladeshis, Chinese and Pakistanis, have also entered the spaza shop market in the Western Cape. Somalis operated the majority of foreign national spaza shops in all three of the field sites. In small towns, there were larger proportions of Ethiopian traders, but Somali nationals still made up the majority of foreign traders.

⁸ Khayelitsha police station crime intelligence officials, telephone interview, 17 April 2012.

⁹ Khayelitsha police station sector manager, Khayelitsha, 25 October 2012. Khayelitsha police station detective, Khayelitsha, 27 October 2011. Harare crime intelligence official, Harare, Khayelitsha, 24 May 2012.

presence more generally, and to crime specifically, together with approaches by civil society, are important influences on day-to-day developments. At the institutional level, the response from the formal justice system, coupled with the actions of other government actors, further affect the calculations of Somali and South African actors alike. Finally, the role of Somali business practices—ostensibly the source of much of the conflict and anti-Somali sentiment—cannot be understood in isolation, but must be contextualised within the wider economic picture that includes both South African traders and South African customers.

This is the first in a series of three reports examining the situation of Somali traders in the Western Cape by exploring the dynamics described above. The reports focus specifically on Somali nationals because they make up the majority of foreign spaza shopkeepers in the region.¹⁰ Attempting to identify why Somalis are so often the targets of crime, the research explores the social and political context in which Somali nationals are embedded.

The current report focuses on the access to justice dimension of the Somali experience. The second report turns to the economics of Somali migration, looking more closely at Somali business practices and the overall effect of Somali businesses on local economies. It considers the common myths and misperceptions involving Somali businesses. The final report examines some of the socio-political dynamics at work, investigating various government and civil society interventions aimed at regulating Somali shops and addressing threats or complaints by South African shopkeepers.

Relying on field research in selected areas that host Somali traders, the current report reflects on the ability of Somali shopkeepers to access justice—both formal and informal—in the aftermath of crime. It examines both the obstacles Somali nationals experience in accessing the formal justice system, and the challenges formal justice actors encounter in their efforts to address crime against Somali nationals. It also looks beyond the formal justice system to understand the role of the informal community justice systems prevalent in many Western Cape townships—investigating the views of local residents, and the responses of township community structures to crime against Somali shops.

The first section of the report briefly outlines the research methodology. The following section describes the background of Somali migration to South Africa and Somali business and community activities. The report then provides a description of the specific types of crime targeting Somali shops. This is followed by an analysis of the three field sites—Khayelitsha, Philippi and Kraaifontein—and a discussion of the possible factors accounting for different crime trends in each area. The subsequent section turns to efforts to address crime against Somalis. Beginning with the Somali experience with the formal justice system, the findings assess the challenges both Somalis and state institutions encounter in addressing these crimes. Finally, the report examines Somali interactions with informal

¹⁰ ACMS carried out research in three townships in Cape Town where residents, Somali traders and police all confirmed that the vast majority of foreign shopkeepers in their areas were Somali nationals.

community justice mechanisms, and how their inability to access these mechanisms affects the level of crime, and the efforts of the formal justice system to deal with these crimes.

RESEARCH METHODOLOGY

Introduction

The report's findings are based on field research conducted over two periods totalling twelve months: from September 2010 to February 2011, and from October 2011 to March 2012. Cape Town's townships served as the main field sites, but additional research also took place in two outlying Cape Town suburbs, and in a few more rural small towns in the Western Cape.

The primary field sites were located in three townships:

1. Kraaifontein: Bloekombos and Wallacedene
2. Philippi: Philippi East and Browns Farm
3. Khayelitsha: Site B, Site C and Harare

While conducting in-depth qualitative research in these areas, the field researcher also spent significant time in Somali neighbourhoods in the coloured township of Mitchells Plain and the largely Afrikaans suburb of Bellville, where many of the interviews with Somali traders from the field sites were conducted. Bellville is located approximately 25 kilometres from Cape Town's city centre, and Mitchells Plain lies approximately 30 kilometres from the city centre.

Finally, in order to identify potential differences between rural and urban dynamics, the field researcher also conducted limited research in a few small towns in the Western Cape: Vredenburg, Veldrif, Tulbagh, Ceres, Prince Albert Hamlet and Caledon. These rural dynamics will be discussed in more detail in the report on the economics of Somali migration.

In all of the main sites, the researcher interviewed Somali shopkeepers, residents and members of the formal and informal justice sectors, including police, prosecutors, legal aid practitioners, and local community leaders. Prior background research of the field site areas helped to inform these interviews. In addition to site interviews, the researcher observed mediation meetings between Somali and South African traders. The researcher also attended selected court hearings involving Somali victims: hijackings targeting Somali traders in Philippi and Khayelitsha, arson and attempted murder cases in Kraaifontein, a police brutality case in Bellville, and an equality court hearing assessing whether the police response to the looting of Somali shops in Du Noon during the 2008 xenophobic attacks violated the equality rights of Somalis.

Choice of field sites

Because there are no public police statistics on reported crime affecting Somali shopkeepers, field sites were chosen based on information provided by the Somali Association of South Africa (SASA), a Somali community organisation operating in Cape Town, Johannesburg and Port Elisabeth.

SASA identified Kraaifontein and Philippi as crime 'hot spots,' a feature that corresponded with media reports. In contrast, SASA advised that crime rates against foreign shopkeepers in Khayelitsha had decreased. Accordingly, ACMS initially envisioned Khayelitsha as a useful comparison point through which it could potentially identify factors that contributed to this decrease. However, during the course of the research it became clear that Somali shopkeepers in Khayelitsha also experienced disproportionate levels of crime, especially robbery and looting. But there did appear to be fewer incidents of orchestrated crime in which South African traders organised the murders of Somali traders or the destruction of their shops. ACMS retained Khayelitsha as a field site because we deemed the absence of crime orchestrated by South African traders to be an important feature for comparison. We were unable to identify any townships in the Western Cape where crime rates against foreign shopkeepers were either low, or comparable to those against South Africans.

The field researcher also briefly conducted interviews in small towns in the Western Cape to compare the circumstances of shopkeepers in rural as opposed to urban townships. The towns of Fishhoek, Vredenburg, Veldrif, Tulbagh, Ceres, Prince Albert Hamlet and Caledon were selected based largely on their geographical location, but also their differing economies (e.g. farming versus fishing).

Interviews

ACMS interviewed 72 Somali shopkeepers and eleven foreign shopkeepers of other nationalities. In addition, the field researcher interviewed 65 South African township residents (including nine South African shopkeepers and six landlords). The interviews also targeted a range of other significant actors, including policemen, legal aid attorneys, and prosecutors, as well as members of civil society and other stakeholders. Interview questions were both specific and open-ended. All interviewees gave informed consent after the researcher explained the nature of the research. All interviews were kept confidential and anonymous, and interviewees were free to stop the interview at any time.

INTERVIEWS								
Area	Somali traders	SA residents	SA traders	Police	Land-lords	Legal Aid	Prosecutors	Other stakeholders
Khayelitsha	15	14	0	11	1	1	0	3
Kraaifontein	10	10	3	5	2	2	0	2
Philippi	15	35	5	4	4	1	4	3
Small towns	17	0	0	0	0	0	0	0
Other areas	9	6	1	0	0	0	0	5
Total	72	65	9	20	7	4	4	13

Somali shopkeepers spoke about their experiences with crime and with the justice system. Many of these interviews took place in neutral locations in Bellville and Mitchells Plain, where many Somali nationals reside, and where some also do business. The shopkeepers preferred that the interviews take place away from their shops for a range of reasons: they felt uncomfortable responding to questions in front of customers, they did not like being interrupted while serving customers, and they did not want to draw attention to themselves. Most Somali shopkeepers in small towns, by contrast, were interviewed inside their shops, as they felt more at ease in their communities and their businesses had fewer customers.

Initially, Somali interviewees were identified through SASA. ACMS then asked these individuals to identify additional potential interviewees. The researcher conducted each interview individually, as Somali traders had particular experiences of crime, and group situations would make accurate recording of chronological and specific events difficult.

In addition to Somali traders, ACMS also interviewed South African residents in the three primary field sites. Residents were asked about their perceptions of Somali shopkeepers. They were also asked their views on the community structures that dealt with crime and on Somali involvement in community activities such as street committee meetings and crime prevention. The interviews covered as wide a demographic of residents as possible, including young, middle-aged and elderly residents—both male and female. ACMS identified some community leaders in Philippi and Khayelitsha via referrals from residents. For other local residents, the field researcher spoke directly with individuals who happened to be on the streets while she was in the field site. This approach was chosen over the snowball technique in order to obtain a more random, broad spectrum of opinion that would not limit the respondents to particular social networks.

Interviews with South Africans were conducted both individually and in groups, depending on whether residents were encountered alone or with friends or family. The research did not rely on focus groups because the possible existence of community divisions on the issue of foreign shops meant that residents might feel uneasy sharing their views amongst strangers. Most interviews were conducted on weekends in order to access both employed

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and unemployed South Africans. Where residents could not speak English, interviews were carried out with the assistance of a translator.

Community workers in both Philippi and Kraaifontein cautioned that conducting research in the field sites could reinvigorate dormant conflicts.¹¹ This risk was greatest with South African shopkeepers, many of whom had previously attempted to forcibly remove foreign shopkeepers from all three of the field sites. Some had also allegedly ordered the murders of their Somali competitors. To minimise the risk of reviving these resentments, the researcher conducted only a limited number of interviews with South African shopkeepers and relied largely on observations made during attendance at four open meetings hosted by police in Khayelitsha. South African shopkeepers from several different townships attended these meetings to voice their concerns.

Permissions to conduct interviews with members of the formal justice sector

The South African Police Service (SAPS) and the Department of Justice and Constitutional Development (DOJ&CD) granted ACMS permission to conduct interviews with police officers, prosecutors and Legal Aid attorneys. The local SAPS and Legal Aid offices provided immediate, unhindered interview access. The Director of Public Prosecutions (DPP) in the Western Cape, however, initially delayed the research for several months and then prevented ACMS from conducting interviews with prosecutors in the province altogether. Instead, he submitted ACMS's research questions (intended to provide the DPP with greater detail as to what ACMS was researching) directly to three anonymous court officials who supplied brief, often just one word or one-sentence answers. Last minute intervention by the regional head of the DOJ&CD enabled ACMS to interview four prosecutors (three at the Wynberg Regional Court and one at the Athlone District Court). While the delay hindered the information ACMS was able to gather, the interviews did provide some insight into the experiences of prosecutors in Philippi, which falls under the jurisdiction of both the Athlone and Wynberg courts.

Participant observation

As mentioned above, the field worker attended four meetings hosted by police in response to threats from South African traders to forcibly close Somali shops. The meetings were held in Khayelitsha and concerned a 2008 agreement between Somali and South African traders prohibiting new Somali shops in Khayelitsha. South African traders from Khayelitsha, as well as neighbouring townships such as Mfuleni and Nyanga, voiced their concerns about Somali shops at these meeting. The police and local government authorities worked to mediate tensions.

¹¹ This concern was raised by a representative of a non-profit organisation in Philippi, and by a city-appointed mediator in Kraaifontein.

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The researcher also observed court proceedings in five cases in which the defendants were accused of attacks on Somali shopkeepers. Providing an indication of the types of obstacles these cases encounter, all of these hearings were postponed for reasons that included the lack of interpreters for the accused, the failure of the defence attorneys to appear in court due to personal emergencies, or a decision by the accused to change attorneys.

BACKGROUND ON THE SOMALI PRESENCE IN THE WESTERN CAPE

Somali immigration to South Africa

Somalis fleeing both large-scale political violence and ethnic persecution have arrived in South Africa as asylum seekers in need of refugee protection. As mentioned, Somali immigrants began arriving in South Africa in the mid-1990s, after the emergence of democracy in South Africa. Most of them were fleeing the civil war that erupted in 1991 following the collapse of dictator Siad Barre's government. Some Somalis also fled from the Somali Region of Ethiopia (also referred to as the Ogaden Region), where the Ethiopian government has carried out large-scale persecution of ethnic Somalis since 1948 when the region was ceded to Ethiopia. This persecution intensified in the early 1990s under former Prime Minister Meles Zenawi.¹²

According to Somali respondents, immigration to South Africa increased following the Ethiopian invasion of Somalia in December 2006. The invasion ousted the ruling Islamic Courts Union, giving rise to al-Shabaab, a militant Islamist group aligned with al-Qaeda.¹³ This led to a second wave of immigration to South Africa from mid-2007, made up of Somalis primarily from the areas surrounding Mogadishu, where most of the fighting took place.¹⁴

This 'second wave' of immigration has recently slowed down following a return to relative stability in Mogadishu. Somalis reported that Somali immigration into Cape Town has dropped significantly in 2012.¹⁵

The Somali community in Cape Town

Somalis have established many community organisations in South Africa. In Cape Town, the two primary representative organisations are the Somali Association of South African (SASA) and the Somali Community Board (SCB). Both organisations function as representative bodies, and liaise with government and civil society regarding matters concerning the Somali community. Another organisation, the Somali Retailers Association, represents Somali traders based in the townships. Somali students at the University of the Western Cape have also set up a research council to conduct and promote discussion on research on Somalis in South Africa as well as in the Horn of Africa. The Somali Refugee Aid

¹² Human Rights Watch, *Collective Punishment: War Crimes and Crimes against Humanity in the Ogaden area of Ethiopia's Somali Regional State*, 2008, at 20, available at www.hrw.org/sites/default/files/reports/ethiopia0608_1.pdf, date accessed 12 August 2012.

¹³ International Crisis Group *Africa Briefing*, 22 February 2012, no 87, at 3, available at <http://www.crisisgroup.org/-/media/Files/africa/horn-of-africa/somalia/b87-somalia-an-opportunity-that-should-not-be-missed.pdf>, date accessed 20 July 2012.

¹⁴ Informal conversations with various Somali community representatives.

¹⁵ *Ibid.*

Agency (SORAA) has recently been set up to offer community services such as English classes, computer training and trauma counseling to Somali residents in Bellville.

In Bellville, two local mosques play a central role within the Somali community. Religious figures often preside over disputes between community members. The primary Somali religious organisation in Bellville, Al Bayan works with Somalis across clans, arranging religious events and organising advice sessions on matters such as medical or tax issues.

Somali business operations in the Western Cape

Somali traders are engaged in diverse business activities in the Western Cape. In Cape Town, they run businesses in townships as well as in formal central business districts (CBDs) such as Bellville, the Mitchells Plain town centre and the Cape Town city centre. A similar pattern exists in small towns where Somalis have opened shops in both town centres and adjacent townships.

When Somalis first started arriving in South Africa, they set up businesses in the central business districts of Cape Town, including the city centre, the Mitchells Plain town centre and the Bellville train station area. Often, they started out as hawkers selling clothing such as socks, belts and sandals, eventually moving on to open clothing shops. Today these businesses have grown and diversified. Cape Town's city centre houses many Somali internet cafes, grocery shops, clothing shops, and restaurants. These city grocery shops have recently adapted and serve takeaway coffee for working customers. Mitchells Plain and Bellville now have densely populated Somali neighbourhoods where businesses include grocery shops, furniture and upholstery shops, clothing shops, restaurants, cafes, bulk 'cash and carry' stores, internet and printing shops, travel agents and guest houses.

The first Somali immigrants in Cape Town had few support structures. The owner of two clothing shops in the Tulbagh town centre described how empty Bellville was when he first arrived in South Africa in 1997: 'There were only dogs and street people. No one was renting there.' Lacking any resources or connections, he was forced to sleep outside, using the clothes he hawked to keep himself warm.¹⁶ Similarly, a Gugulethu shop owner who arrived in 1998 lacked any contacts and initially worked as a security guard for a South African security business in Bellville.¹⁷

Somali traders eventually sought business opportunities in the 'spaza' market in Cape Town's townships. Spaza shops are small informal grocery shops that provide basic food and household items such as bread, milk, sugar, cooking oil, soft drinks, cigarettes and paraffin. The earliest Somali traders began opening spaza shops in townships in the mid to late 1990s.¹⁸ These shops became a noticeable presence in the townships in the early

¹⁶ Somali shopkeeper, Tulbagh, Western Cape, 1 March 2012.

¹⁷ Somali shopkeeper, Bellville, 22 July 2012.

¹⁸ Harare police station crime intelligence officer, Harare, Khayelitsha on 24 May 2012.

2000s.¹⁹ Somali traders favour the township spaza market because of the untapped business opportunity, the low start-up costs of spazas, and the informal nature of business in Cape Town's townships, where permit and paper requirements are low or non-existent. Two Somali traders also pointed to increasing competition from Chinese traders in the clothing market as pushing them into the grocery market.²⁰

From about 2005, Somali traders also began searching for opportunities in small towns across the province.²¹ As a result, Somali businesses consisting mainly of clothing and grocery shops can be found in more distant towns, including Barrydale, Tulbagh, Caledon, Vredenberg and Prince Albert Hamlet.

Spaza shop owners or employees often sleep in their shops, or in separate rooms behind their shops because they worry that their shops will be robbed if they leave them vacant overnight. The wives and children of Somali shop owners and employees generally do not live in township areas, but in Somali neighbourhoods in Bellville and Mitchells Plain. Somali women often oversee businesses in these Somali neighbourhoods including clothing and fabric shops, restaurants and street stalls.

Somalis have entered the townships to take advantage of business opportunities, but they have chosen to settle their families outside of the townships because of security concerns. This has drawn negative attention from some township residents, and has inhibited Somali integration with the local township community, leaving Somali traders socially isolated. These and other factors have exposed traders to even greater levels of crime in the townships.

Factors contributing to disproportionate levels of crime against Somali traders

All three of the field sites—Khayelitsha, Philippi and Kraaifontein—are characterised by high levels of violence and crime that affect Somalis and South Africans alike. Somali shopkeepers, however, experience higher rates of violent crime than their South African neighbours. Attacks on Somali shopkeepers are motivated by a number of interrelated factors stemming largely from their marginalisation in the community and the nature of their businesses. Marginalisation limits community responses to crime against Somali shops and enables misinformed and biased views to circulate unchecked. South African traders also resent the competition posed by Somali businesses. Finally, Somali shops present lucrative targets for opportunistic robbers. These factors are described below.

¹⁹ Khayelitsha police station colonel, Khayelitsha, 25 October 2012. Somali Retailers Association representative, Bellville, 10 January 2011.

²⁰ Somali trader, Tulbagh, Western Cape, 1 March 2012. Somali trader, Vredenburg, 8 March 2012.

²¹ Of the 17 traders interviewed in small towns, the earliest arrivals had opened their shops in 2005.

Social isolation

Although many South African township residents welcome Somali shops into their neighbourhoods, Somali nationals themselves tend to live in social isolation from the communities in which they work. This isolation from the community lowers the risk of capture and punishment for those who commit crimes against Somalis, making them more appealing targets. While South Africans have access to informal community justice mechanisms that are mobilised in response to crime, community members do not mobilise in the same way to combat crimes against Somalis. They feel little outrage against these crimes and are less likely to investigate them or share information with the police. One Khayelitsha resident stated:

We don't help them because they don't help us. We are not really concerned about their problems because they are very separate from us. If someone were to kill them, we would never even know.²²

The issue of social isolation and informal justice mechanisms will be explored in greater detail in a later chapter.

Misinformation and bias

A number of residents hold misinformed, biased views of Somali traders. Somali marginalisation exacerbates this problem, as the lack of engagement between Somali traders and surrounding communities contributes to the formation of ill-informed beliefs. Some residents suspect traders of engaging in witchcraft aimed at bringing back luck to communities. Others feel that Somalis are arrogant and do not care about local community problems. Acute poverty also heightens the bias against Somali traders, giving rise to fears that the Somali presence reduces economic opportunities for South Africans and is a financial drain on society. Such negative sentiments further contribute to the lack of community response to crimes affecting foreign traders.

Impunity

Low prosecution rates for crimes targeting Somalis, coupled with the lack of community response described above, creates a sense of impunity amongst the perpetrators. This adds to the perception that Somalis as easy targets, leading to further attacks.

²² South African resident, Endlovini, Khayelitsha, 6 February 2011.

Competition

Intense competition between South African and Somali shopkeepers has resulted in attacks on Somali shops and shopkeepers. South African traders have been arrested for murder, attempted murder and arson attacks against competing Somali traders in Philippi and Kraaifontein. South African traders often act under the belief that South Africans have greater claim to township business markets than Somali refugees and asylum seekers.

Profitable targets

Some criminals target Somalis because they know that they keep large amounts of cash on them, as well as other easily conveyable consumer goods such as airtime vouchers and cigarettes. Somali traders store cash in their shops partly because of the barriers to opening and maintaining bank accounts with asylum seeker or refugee documents. Although the banking system agreed to accept asylum seeker documents following a legal challenge,²³ additional barriers, such as the proof of residence requirement, continue to prevent bank access.²⁴ Even with bank accounts, Somali shops still hold large cash reserves because most purchases rely on cash.²⁵ Although some larger spaza shops possess credit and debit card machines, the vast majority of customers prefer to pay in cash.²⁶

Complexity of motivations

Attacks on Somali shopkeepers are motivated by a number of factors, including marginalisation, impunity, profitability, prejudice, and/or business competition. These factors are often interrelated and can simultaneously motivate criminal attacks. The overlapping factors make it difficult to easily categorise attacks on Somali shops as either ordinary crime like that affecting residents, or as purely xenophobic. What is apparent is that the disproportionate rate of crimes against Somali shopkeepers in Cape Town's townships is not accidental and requires further exploration.

²³ A settlement was reached between the Consortium for Refugees and Migrants in South Africa (CORMSA) and Financial Intelligence Service in November 2010. See CORMSA press release 'Refugees and Asylum seekers again able to access bank accounts' available at <http://www.lhr.org.za/news/2010/refugees-and-asylum-seekers-again-able-access-bank-accounts>, date accessed 16 August 2012.

²⁴ Somali Association of South Africa representative, telephone interview, 14 August 2012.

²⁵ Somali Retailers Association representative, telephone interview, 14 August 2012.

²⁶ *Ibid.*

CRIME AFFECTING SOMALI SHOPKEEPERS IN THE WESTERN CAPE

The overlapping motivations described above give rise to various forms of crime. While robberies are the most prevalent crime, shopkeepers are also subject to looting by residents and to more orchestrated attacks organised by competing South African traders. These crimes are set out below.

Statistics on crimes affecting foreigners, including robberies and murders, are not readily available. The Kraaifontein station commander said that her station did not keep any records of crime affecting foreigners. Police in Philippi East and Harare said that they kept records, but could not disclose them without the consent of the Provincial Commissioner. At the time of writing, ACMS was still awaiting a response from the Provincial Commissioner's office.

Types of crime

Somali shopkeepers in the Western Cape experience a variety of crimes, many of which involve extreme violence. The most common categories of crime include:

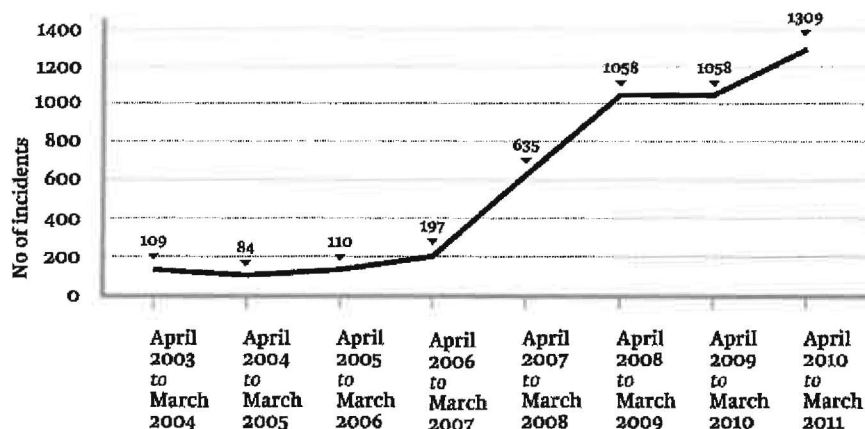
- Opportunistic business robberies;
- Crimes orchestrated by South African traders against Somali competitors;
- Crimes orchestrated by Somali traders against other foreign competitors;
- Intimidation and attempted illegal evictions of Somali shops by South African competitors;
- Robberies by police during police search operations;
- Looting of shops by residents;
- Hijackings; and
- Harassment and abuse by state institutions and community leaders.

Opportunistic business robberies

The most common crime against Somali shops involves business robberies, generally involving violence or the threat of violence. Business robberies in the Western Cape have

increased since 2006, as demonstrated by the table below, which sets out general business robbery statistics for the Province as a whole:²⁷

Robberies at non-residential premises in the Western Cape (SAPS statistics)



In response to the constant threat of robberies, many traders have armed themselves to protect their shops. Two respondents successfully defended their shops from robbers with firearms.²⁸ Legally, firearms must be stored in secure premises containing safes and official street addresses—both of which are lacking at Somali shops. As a result, Somalis have resorted to buying illegal firearms, often from local youth.²⁹ Although police believe the firearms are generally being used in self-defence, they expressed concern that the number of unlicensed firearms owned by Somalis could increase overall levels violence.³⁰ One Somali trader, for example, shot at Tactical Response Team members when they tried to raid his shop.³¹ In another incident, a woman was injured as a result of crossfire between Somali traders and robbers.³²

The Somali preference for illegal firearms is not difficult to understand, given that Somali shopkeepers are disproportionately affected by business robberies. In an address to Parliament in February 2012, the Western Cape Provincial Commissioner of Police stated that nearly 70 percent of business robbery victims in the province were foreign national spaza shopkeepers.³³ Police intelligence officers at the Khayelitsha police station reported that foreign traders—most of whom were Somali—made up 96.5 percent of business

²⁷ SAPS crime statistics, available at: [http://www.saps.gov.za/crime-statistics](#), date accessed 15 May 2012.

²⁸ Former Khayelitsha Somali trader, Mitchells Plain, 6 July 2012. Phillippi Somali trader, Bellville, 21 June 2012.

²⁹ Khayelitsha police station colonel, Khayelitsha, 25 October 2012. Kraaifontein police station detective, Kraaifontein, 1 December 2011.

³⁰ Khayelitsha police station colonel, Khayelitsha 25 October 2011. Khayelitsha sector manager, Khayelitsha, 25 October 2011. Kraaifontein police station detective, telephone interview, 30 July 2012.

³¹ Khayelitsha sector manager, Khayelitsha, 25 October 2011.

³² *Ibid.*

³³ Wyndham Hartley 'Illegal foreign business owners "a soft target for criminals"' *Business Day* 9 February 2012, available at [http://www.businessday.co.za/News/Illegal-foreign-business-owners-a-soft-target-for-criminals](#), date accessed 24 May 2012. The SAPS Western Cape provincial office confirmed this statistic by telephone on 16 August 2012.

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robbery victims in the station's jurisdiction, despite owning only 50 percent of shops in the area. South African nationals, by contrast, owned the other 50 percent of shops but made up only 3.5 percent of victims.³⁴ Forty percent of business robberies involved attempted murder or murder.³⁵

Crimes orchestrated by South African traders against Somali competitors

Some South African shopkeepers have responded to growing competition from Somali shopkeepers by orchestrating crimes against them. These crimes have taken the form of arson attacks on Somali shops, murders or attempted murders of shopkeepers, and robberies by hire. Orchestrated crimes were widespread in Kraaifontein in 2009 and 2010, but have since decreased. They were also common in Philippi until mid-2011, and are again on the rise following a period of inactivity. Somali traders there believe that a 2012 murder in Philippi East, and a shooting in Browns Farm that left one trader paralysed, were orchestrated by South African shopkeepers.³⁶ In Khayelitsha, by contrast, most of the robberies are committed by opportunistic youth, and police and Somali traders report that there are very few incidents of orchestrated crime.

In one of the most high profile cases of orchestrated crime, four South African shopkeepers were arrested in Kraaifontein in 2010 for allegedly bribing seven youths to murder local Somali shopkeepers. These shopkeepers were released a few months later after a key witness refused to testify.³⁷ In a similar case, a South African woman from Philippi is currently on trial for arranging the murder of several Somali shopkeepers in the area on behalf of South African traders.³⁸

Arson attacks on Somali shops were also prevalent in both Kraaifontein and Philippi. Attackers threw lit bottles of paraffin into shops, resulting in deaths and serious injuries. Of fifteen shopkeepers interviewed in Philippi, six reported cases of arson against their shops. Two shops had been burnt down more than once. In Kraaifontein, two of the ten traders interviewed had suffered arson attacks. Arson attacks in Philippi and Kraaifontein generally did not involve robbery, as the shop contents were destroyed in the fire.

In Khayelitsha, the two traders who experienced arson attacks reported that their shops had been set on fire by protesters—in one instance during a taxi strike and in the other during a protest by shebeen owners. They did not suspect South African traders of having planned the arson attacks, in contrast to the experiences of shopkeepers in Kraaifontein and Philippi.

³⁴ Khayelitsha police station crime intelligence officials, telephone interview, 17 April 2012.

³⁵ Khayelitsha police station crime intelligence officials, Khayelitsha, 25 October 2012.

³⁶ Philippi Somali trader, Belville, 22 July 2012.

³⁷ Kraaifontein police detective, Kraaifontein, 13 January 2010.

³⁸ Philippi East police station detective, Philippi East, 1 December 2011.

Orchestrated crime by South African traders also takes the form of 'hit and runs' where individuals fire shots at Somali shopkeepers and then leave the scene without stealing any goods.³⁹ Most of these attacks have occurred in the field sites of Philippi and Kraaifontein, as opposed to Khayelitsha. Police at the Philippi East and Kraaifontein police stations suspect South African traders of planning some of these attacks.

In Kraaifontein, four Somali respondents had experienced hit and run attacks. One of them described how attackers shot at his colleague in the front of the shop and then ran away. The bullet missed his colleague and struck the respondent in the back while he was watching television at the other end of the shop, leaving him permanently paralyzed. The shopkeeper did not know if a case had been opened, as he was hospitalised immediately after the attack and was not approached by police at the hospital. He returned to Somalia two days after the interview so that his mother could care for him.⁴⁰ Four South African traders and seven youths were later arrested for orchestrating similar crimes in Kraaifontein.

Only one Somali respondent in Philippi reported a 'hit and run' incident. However, unlike the traders in Kraaifontein, he did not believe the shooting was organised by South African traders. He attributed it to youths who were angry that he had laid charges of arson and attempted murder against one of their crime associates two days earlier. As a result of the shooting, the respondent decided not to pursue the arson case against the suspect.⁴¹ Similarly, only one of the fifteen Somali traders in Khayelitsha reported a 'hit and run'. He also believed it was a revenge attack for laying charges against a robbery suspect, and as a result of the shooting he decided to abandon the charges.

There is also evidence that South African shopkeepers may have orchestrated robberies. In July 2010, six armed men robbed a Somali shop in Philippi and then set the shop on fire by throwing a lit bottle of paraffin into it,⁴² indicating that they also wanted to destroy the shop. Police and some shopkeepers have also not ruled out the possibility that some seemingly ordinary robberies could be instigated by competing shopkeepers to scare away customers and destroy competing businesses.

Crimes orchestrated by Somali traders against other foreign nationals

On a more limited scale, Somali shopkeepers have also resorted to crime against competing foreign nationals (including Somali, Ethiopian and Chinese nationals), or used crime to address internal disputes, such as those between employers and employees, or between shareholders over shop profits. They have not, however, orchestrated crimes against South African competitors.

³⁹ Ibid.

⁴⁰ Kraaifontein Somali shopkeeper, Bellville, 11 November 2010.

⁴¹ Philippi Somali trader, Bellville, 30 October 2010.

⁴² Ibid.

Police at all field sites reported that they suspected Somali traders of committing crimes against their foreign competitors, but these cases made up a small portion of the attacks against foreign migrants. The Kraaifontein police reported five incidents since 2011.⁴³ In Philippi East, police believed that Somali traders orchestrated approximately 30 percent of crime against their Somali counterparts.⁴⁴ In Khayelitsha, police reported only three cases involving disputes between Somali traders; such crime, they said, constituted less than one percent of cases relating to foreign nationals.⁴⁵ Most of these cases involved threats and intimidation against fellow Somalis, and were often resolved by Somali community leaders in Bellville.⁴⁶

Police in both Khayelitsha and Philippi East also suspected Somali traders of paying youth to rob foreign competitors.⁴⁷ In Kraaifontein, police suspected Somali traders of burning down a new Chinese spaza shop that had opened next door. They also believed Somali traders had orchestrated an arson attack on a Somali shop in the neighbouring coloured township of Skotsdene.⁴⁸

Although limited in scope, the fact that Somalis have also resorted to crime to address business competition may in part stem from the heightened business pressure Somali shopkeepers feel as they confront attempts by South African traders to limit their businesses. The relative impunity of those who commit crimes against them may also give rise to a more 'self-help' attitude in which Somalis believe they must resort to extra-legal measures to ensure their own survival. Such crimes must thus be understood within the broader socio-political context in which Somalis operate and their attempts to access justice.

Intimidation and attempted illegal evictions of Somali shops by South African competitors

Somali shopkeepers in Khayelitsha, Philippi, Gugulethu, and Kraaifontein have received threatening letters meant to intimidate them into leaving their shops. These letters instruct Somali shopkeepers to close their businesses by a certain date and leave the township.

Asylum seekers and refugees enjoy the right to work in South Africa, as well as the Constitutional right to equality.⁴⁹ The attempts to remove Somali traders from the townships through these intimidating letters, particularly if indirectly supported by the state through police inaction, may amount to unfair discrimination on the basis of

⁴³ Kraaifontein police station detective, Kraaifontein, 14 June 2012.

⁴¹ Philippi East police station officers, Philippi East, 27 October 2011.

⁴⁵ Khayelitsha police station crime intelligence officials, Khayelitsha, 25 October 2011.

⁴⁶ Harare police station detective, telephone interview, 16 August 2012.

⁴⁷ Philippi East police station detective, Philippi East, 1 December 2012.

⁴⁸ Kraaifontein police station detective, telephone interview, 30 July 2012.

⁴⁹ See section 27 of the Refugees Act 130 of 1998. The right to work for asylum seekers was confirmed by the Supreme Court of Appeal in *Minister of Home Affairs and Others v Watchenuka and Another* 2004 (4) SA 326 (SCA) at 15. The right to equality is set out in section 9 of the Constitution and applies to 'everyone', and is therefore not restricted to South African citizens alone.

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